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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

* * *

In re

SHIRLEY REMMERT

Debtor

)
) Case No. 08-31074
) Chapter 11
)
) **MOTION FOR RELIEF FROM THE**
) **AUTOMATIC STAY**
)
) **Date: July 11th, 2008**
) **Time: 1:30PM**
) **Courtroom: Hon. Dennis Montali, Courtroom**
) **No.22**

DELFIN VENOYA,

Movant,

vs

SHIRLEY REMMERT

Respondent

TO: SHIRLEY REMMERT, debtor in possession, to the United States Trustee, to all interested parties, and to this Honorable Court:

**IN RE REMMERT- MOTION FOR RELIEF FROM
AUTOMATIC STAY**

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COMES NOW Movant DELFIN VENOYA, an unsecured creditor and owner of the premises located at 990 Berkeley Avenue, Menlo Park, California, 94025 ("the Subject Property"), and moves for relief from the automatic stay, or, in the alternative, an adequate protection order, based upon the following:

1. Movant is the owner of the residential real property located at 990 Berkeley Avenue, Menlo Park, California, 94025 Woodside Road, Redwood City, California, ("the premises") which such premises are currently occupied by debtor/Respondent SHIRLEY REMMERT.

2. Movant is also the father of debtor/Respondent. From 1998 to 2003, Debtor/Respondent effected a fraudulent transfer of the Subject Property, and other properties, from Movant to herself. She then encumbered them in an amount in excess of \$1.3 million. Movant filed suit in San Mateo County Superior Court, Case No. CIV 438208, in March of 2004, and on March 10th, 2008, Judge Kopp of that court issued the court's ruling that the deed purporting to transfer the subject property from Movant to debtor was void, and further ordered debtor/respondent to vacate said property and ordered the issuance of a Writ of Possession. Copies of the court's order and the Writ are attached to the Declaration of Delfin Venoya, submitted herewith.

3. Debtor has been adjudged a vexatious litigant by the San Mateo County Superior Court. This Chapter 11 proceeding is itself an abusive filing. Debtor filed a Chapter 13 Petition in this Court on October 15th, 2007, which such case was dismissed on January 11th, 2008 because of the debtor's failure to make plan payments. The current case was filed in bad faith within the meaning of 11 USC §362(c)(4)(D).

4. Debtor has no interest or equity whatsoever in the subject property, which is by definition unnecessary to an effective reorganization.

5. Movant is attempting to negotiate a new loan on the property, which is in foreclosure due to the improper and fraudulent encumbrance. Time is of the essence, as the lender has noticed a trustee's sale for July 8th, 2008.

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1 This motion is brought pursuant to 11 USC Section 362(d)(1) for cause.

2
3 Movant will also seek attorney's fees and costs incurred in bringing this motion, pursuant to the
4 Lease Agreement, and shall seek such further relief as is just and proper.

5 This motion shall be based upon these moving papers, as well as the declaration of Delfin
6 Venoya, submitted herewith.

7 In the event neither the Debtor nor the Debtor's counsel or any interested party appear at the
8 hearing of this motion, the court may grant relief from the Automatic Stay permitting Movant to proceed
9 with its unlawful detainer action against debtor in San Mateo County Superior Court, forthwith.
10

11 Date: 6/24/08

12 s/
13 Adam C. Kent
14 Attorney for
15 DELFIN VENOYA
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